THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 7211 of 2007

Oral order:

The petitioner is an Assistant Engineer in the A.P. State Housing Corporation Limited. On the allegation that he committed irregularities in making payment to the 50 eligible beneficiaries of Narayanapalle village under the Indiramma 2006-07 Housing Colony of Duvvur Mandal, the respondent issued show cause notice dated 08.03.2007, calling upon him to show cause as to why disciplinary action should not be taken against him. The petitioner submitted his explanation on 29.03.2007. However, the respondent, vide orders dated 29.03.2007, placed the petitioner under suspension, pending conclusion of disciplinary proceedings. It is this order, which the petitioner seeks to challenge in this writ petition.

The learned counsel for the petitioner submitted that the impugned suspension order has been passed by the respondent based on the complaint dated 01.03.2007 given by one M. Busi Raju who is inimical to him. He submitted that that the wife of M. Busi Raju, is one of the beneficiary under the scheme, and during inspection, he found that she had taken cement without constructing house, by showing the photographs of the basement of some other beneficiary, and therefore, he stopped payment. He submitted that as the petitioner exposed the illegality being committed by M. Busi Raju, he bore a grudge against him and file a complaint before the respondent, and the respondent also, who is inimical to the petitioner because on earlier occasion he had filed writ petition in W.P. No. 26266 of 2006 and writ appeal in W.A.

No. 146 of 2006 assailing the order of transfer, he passed the impugned order placing him under suspension. He submitted that the

respondent has placed him under suspension based on the complaint given by a person, who is not a member of the scheme, and no member having complaint against him, the respondent could not have passed the impugned order of suspension. He thus prayed that the impugned suspension order be set aside and he be reinstated into service.

On 10.04.2007, when the writ petition came up for admission, the learned Standing Counsel for the respondent took notice and sought time to get instructions/file counter. He was directed to produce the relevant record. The respondent did not file counter. However, as directed by this Court, the learned Standing Counsel for the respondent produced the relevant record.

A perusal of the file indicates that one M. Busi Raju made a complaint to the respondent on 01.03.2007 stating that he belongs to Narayanapalle village, Duvvur Mandal, and that their village was sanctioned about 135 houses under the housing scheme, that there are two groups, and in respect of one group consisting of 54 beneficiaries, payments were made by taking bribes, and in respect of the other group of beneficiaries, which did not pay bribes, the payments are not released despite collection of the bank pass books. Based on the said complaint, the Deputy Executive Engineer, Proddatur, conducted an enquiry, and found that payments were made in respect of 54 beneficiaries, which are under construction, while payments were not made in respect of the other group, and that the construction of the houses was at different stages. Based on this report of the Deputy Executive Engineer, Proddatur, the respondent issued show cause notice dated 08.03.2007 calling upon the petitioner to submit his explanation. A perusal of the explanation submitted by the petitioner would show that he had taken a stand that payments are being made to beneficiaries at different stages of construction –

basement level, lintel level, roof level, roof cast and toilets, that he had delayed the making of the payment as he detected irregularities, in that the beneficiaries, in particular the wife of M. Busi Raju, without making construction, had taken payments by showing the photographs of the basement of her neighbour in collusion with the works Inspector without his knowledge. The petitioner further in his explanation stated that some of the beneficiaries who had taken cement without his knowledge, made constructions, and considering this, he prepared the beneficiaries list for payment on 03.03.2007, which was submitted to the State Bank of India, Duvvur, for payment on 10.03.2007.

The report of the Deputy Executive Engineer, though states that there is delay in making payment, it does not allege any misappropriation of monies by the petitioner. Though the petitioner had explained the reasons for the delay in making the payment, taking a stand that the payments were not made because some of the beneficiaries had taken payments without actually making the construction, the fact remains, the respondent before passing the impugned order, has not considered the stand taken by the petitioner in his explanation. In that view of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

The petitioner is once again directed to submit detailed representation, within a period of one week from the date of receipt of a copy of this order, seeking revocation of his suspension, and on receipt of such representation, the respondent shall consider the representation of the petitioner for revocation of his suspension in the light of the report of the Deputy Executive Engineer, and the explanation of the petitioner, and pass appropriate orders thereon, within a period of three weeks thereafter.

Accordingly the writ petition is disposed of. No costs.

N.V. RAMANA, J.

Date: 16th April, 2007.

Note:
Issue CC today.
(B/o)
KSR